

[REDACTED]

Date: APR 04 1989

Person to Contact:

Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under the Nonstock Corporation Act of the state of [REDACTED].

The purposes for which the corporation was formed are as follows:

To operate exclusively for charitable and educational purposes, all for the public welfare, and to this end, to promote, encourage and assist the advancement of cultural social, educational, civic and economic life in the [REDACTED] Area; to promote [REDACTED] throughout the country as a desirable place to live, work, and visit; to encourage and assist other charitable, civic, and cultural organizations in [REDACTED]; to encourage social intercourse and friendship among the residents of [REDACTED] through the promotion of music and the arts; to solicit donations of, accept and receive properties, monies or securities by virtue of gift, grant, bequest, devise or otherwise, and to hold, control, administer, invest, re-invest, accumulate and generally care for any and all funds and property, real and personal, which from time to time may be given, granted, bequeathed, devised or otherwise conveyed, or made available to this corporation either unconditionally, upon condition, or in trust for specified purposes within the limitations of this Certificate of Incorporation; and to disburse such funds and property or the income therefrom, in aiding, supplementing, improving and promoting [REDACTED]; and generally to do anything necessary or expedient to carry out such purposes

The information submitted with your Application Form 1023 indicated that your primary activity consists of conducting an annual festival in the local community. The festival is open to the general public and features musical and other entertainment and the sale of food and beverages. The festival's aim is to promote civic pride in the community and to develop the economic aspects of the region.

Other activities conducted or sponsored by the organization include a business and industry exposition, an annual trade show in which local businesses display their various products and services to the general public; an annual road race and an outing at a local amusement park.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 71-545, 1971-2 C.B. 235, holds that an organization that conducts an international exposition commemorating certain historical events and cultural achievements and exhibiting products of various nations, qualifies for exemption under section 501(c)(3) of the Internal Revenue Code.

The annual festival conducted by your organization, unlike the exposition presented in Rev. Rul. 71-545, does not endeavor to enlighten people on the importance of certain historical events or the cultural achievements of various nations.

The festivals activities are not in furtherance of charitable purposes as used in its generally accepted legal sense nor do they support an overall educational theme.

While your activities, taken as a whole, may benefit the community, they do not further exempt purposes within the meaning of section 501(c)(3) of the Code. Therefore, we have determined that you are not operated exclusively for charitable, educational or other exempt purposes stated in section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.


If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



District Director

cc:



Enclosure: Publication 892